

LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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DATE: SEPTEMBER 8, 2003
FROM: KATHLEEN ROLLINGS-McDONALD, Acting Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #9: LAFCO #2942: Dissolution of County Service Area 77 (Mariana Ranchos – Southern Apple Valley)

INITIATED BY:

County Board of Supervisors as the governing body of County Service Area 77

RECOMMENDATION:

1. Determine that LAFCO #2942 is statutorily exempt from environmental review, and direct the Clerk of the Commission to file a Notice of Exemption within five days;
2. Approve LAFCO #2942, Dissolution of County Service Area 77, subject to the following terms and conditions:
 - a) All property tax revenue attributable to the District, including delinquent taxes and any and all other collections or assets of the District to be dissolved, shall accrue and be transferred to the Mariana Ranchos County Water District;
 - b) The County Board of Supervisors shall defend, indemnify, and hold harmless the San Bernardino Local Agency Formation Commission in making these determinations; and,
 - c) Authorize the completion of these proceedings pursuant to Government Code Section 57081, without an election, unless 25-

50% of the registered voters within the District submit written protest to this proposal.

3. Adopt LAFCO Resolution #2780 setting forth the Commission's findings and determinations.

BACKGROUND:

The County Board of Supervisors has initiated an application to dissolve County Service Area 77 (CSA 77), a district responsible for the maintenance of 5.5 miles of private roads. The rationale for the application is that the District's share of ad valorem property tax is insufficient to perform its function for road maintenance and the landowners within this district do not support a special tax or assessment to perform the necessary level of service. Therefore, the District has liability for the roads under its jurisdiction with no financial means to repair or maintain them adequately.

CSA 77 encompasses 480 acres in Section 21 in the southern Apple Valley community known as Mariana Ranchos. This area is generally bordered by Ocotillo Way on the north, Navajo Road on the east, a combination of Santa Rosa Road and Roundup Way on the south, and a combination of Juniper and Kiowa Roads on the west. Maps of the general location and area are included as Attachment #1.

To provide an historical context for this review, CSA 77 was formed in 1970 following review and approval by LAFCO (LAFCO #956). At the time, the purpose of the District was stated to be "provide revenue through County taxation of property owners within the area for the full cost of continuous road maintenance and repair." The area had recently had many of its roads paved and needed a mechanism to assess the property owners for their upkeep. At the time, LAFCO staff questioned the amount proposed for the tax share and its relationship to the service to be provided. It was noted in the staff report "There is no other way for these property owners to improve their roads except through a 1911 Act (assessment district) to put the area into the County maintained system."

A County Service Area, by definition of law, is intended to be a funding mechanism for the County to provide augmented services to an area where revenues are to be generated sufficient to provide the service. The tax rate proposed at the time CSA 77 was formed was 34 cents and was anticipated to generate approximately \$1,100 per year, apparently sufficient for the service at the time. In 1979, this tax rate was converted to the District's tax share following implementation of Prop. 13, and today represents 1.29% of

the property tax revenue generated within the area. This level provides approximately \$2,400 per year, a sum unable to cover the cost of maintaining 5.5 miles of desert-mix roads.

In November 2002, Special District's staff conducted a survey of the landowners to determine whether they would support one of three options: A road paving option which carried a per parcel cost of \$650 per year for a period of ten years; a road grading option which carried a per parcel cost of \$1,100 per parcel for the first year and a \$150 per parcel per year charge for ongoing maintenance with a 2.5% cost-of-living increase allowed; or the option of dissolving the district (a copy of the survey request is included within Attachment #2). Forty-three property owners responded, with thirty-three of those supporting dissolution.

In a typical dissolution proposal, the Commission determines what agency will succeed to the services and responsibility of the dissolving agency. In this case, there will be no entity to take over the road maintenance responsibilities. However, a determination as to the future of the property tax share applicable to CSA 77 is needed. The advisory commission for CSA 77 has requested that its share be transferred to the Mariana Ranchos County Water District, to maintain these revenues locally rather than having them dispersed to other larger, regional agencies. On September 9, 2003, the County Board of Supervisors is scheduled to adopt a resolution, pursuant to the provisions of Revenue and Taxation Code 99.02, which will transfer CSA 77's share to the Mariana Ranchos County Water District. This transfer will take place upon successful completion of this proposal and following the winding up of the affairs of the District.

The County of San Bernardino will be the entity required to succeed to winding up the affairs of the District upon completion of the dissolution as outlined in Government Code Section 57451. As a condition of approval, all remaining assets and future receipts attributable to CSA 77 after the completion of the dissolution and closure of the affairs of the District shall be transferred to the Mariana Ranchos County Water District.

As to the future use of the revenues of CSA 77, Government Code Section 57463 outlines the manner in which funds of a dissolved entity can be used. Once the obligations of the dissolved district have been satisfied, distribution to the district "may be used for any lawful purpose" of the District. However, this section further indicates "So far as may be practicable, the funds, money, or property shall be used for the benefit of the lands, inhabitants, and taxpayers within the territory of the dissolved district." This section is, therefore, asking that the Mariana Ranchos County Water District use the

funds it receives to the benefit of the territory of the former CSA 77, but does not mandate that such occur.

SERVICE CONSIDERATIONS:

The services provided by CSA 77 are identified as “road maintenance” and include only the private roadways within its 480 acre area (County-maintained roads are not a part of this CSA and are not affected by this proposal). The level of service currently provided by CSA 77 is the annual purchase of bulk, “cold mix” asphalt which is then used by the residents for patching of the roadways in close proximity to their property. There is no other organized maintenance activity for the private roads within this area, nor will the area’s property owners support a financing mechanism to increase the level of service. However, there is a potential liability to the County since CSA 77’s authorized service is to provide “road maintenance” within the area. Approval of this proposal will not change the status quo for this area, residents will still be responsible for patching potholes in their private roads, or other repairs that are necessary, but it will remove any liability of the County related to this service.

COMMUNITY RESPONSES TO THIS PROPOSAL:

Attached for Commission review are responses expressing opposition or concern regarding the proposed dissolution from the Town of Apple Valley and the Apple Valley Fire Protection District (copies included as Attachments #3 and #4). The Town has expressed its opposition to the dissolution on the basis that this safety-related service should be provided to the area. The Fire District has expressed their concern that any level of road maintenance in this area is beneficial since roadways in disrepair affect their ability to serve. The County Special Districts Department has responded to these expressions (copy included as Attachment #5) reiterating that the property owners are aware of the repercussions of not funding the needed road repairs but are still unwilling to assess themselves to perform them. With or without the existence of CSA 77, unless resources to upgrade the roads in this area are found, the response times for emergency services will increase. As noted in the County Special District’s response, a number of avenues were explored before dissolution was proposed, such as alternative funding sources, etc. None of these types of funds were available for this area; so the issue of dissolution was brought forward.

ENVIRONMENTAL CONSIDERATIONS:

The Commission's environmental consultant, Tom Dodson of Tom Dodson and Associates has reviewed this application and has concluded that it does not constitute a project; therefore, it is statutorily exempt from environmental review. If the Commission wishes to approve this proposal, it should certify that this proposal is statutorily exempt from environmental review, and direct the Clerk of the Commission to file a Notice of Exemption within five days.

FINDINGS:

The following findings are required to be provided by Commission policy and Government Code Section 56668 for any change of organization/reorganization proposal:

1. The area in question is legally inhabited, certified by the Registrar of Voters as containing 242 registered voters as of June 10, 2003.
2. The County Assessor's Office has determined that the value of land and improvements is \$12,479,310 (\$2,661,229 – land; \$9,818,081 – improvements).
3. Notice of this hearing has been provided through publication in The Sun, and the Victor Valley Daily Press, newspapers of general circulation in the area. As required by Commission policy for dissolution, the legal ad run in the Daily Press was a 1/8th page display ad which replaces the requirement for individual notice.
4. This proposal does not conflict with the County General Plan. The County General Plan designates this area as RS-1, single-family residential, 1 acre minimum lot size. The County has assigned the area an Improvement Level 2 designation which requires, among other things, paved access.
5. The Commission's environmental consultant has reviewed this proposal and recommends that a statutory exemption be issued for LAFCO #2942. This recommendation is based on the finding that the proposed dissolution will not alter the physical environment.
6. The area is currently served by the following local agencies:

County of San Bernardino
Mojave Water Agency
Mojave Desert Resource Conservation District

Apple Valley Fire Protection District
Mariana Ranchos County Water District
County Service Area 17 (Street lights)
County Service Area 60 (Apple Valley Airport)
County Service Area 70 (Countywide)
County Service Area 77 (Mariana Ranchos)

The only agency directly affected by this proposal is County Service Area 77. None of the other overlaying, regional agencies will be affected by this proposal.

7. A Plan for Service has been provided by the County of San Bernardino Special Districts Department. This plan is attached for Commission review, and it indicates that the revenues currently available through CSA 77 are insufficient to perform its services, defined as road maintenance. Through surveys conducted over ten years apart, the landowners within the area have responded negatively to providing additional funding for this service. In November 2002, they indicated their support for dissolution.
8. This proposal and its anticipated effects do not conflict with adopted Commission policies.
9. All notices required by law have been provided. To date, protest has been submitted by the Town of Apple Valley. Concern has been expressed by the Fire Chief for the Apple Valley Fire Protection District. These have been reviewed within the narrative above.
10. The County of San Bernardino and the Mariana Ranchos County Water District have successfully concluded the property tax share transfer process as outlined in Section 99.02 of the Revenue and Taxation Code.
11. Maps and legal descriptions, as revised, are in substantial conformance with state standards.

CONCLUSION:

On a number of occasions the Commission has reviewed the proposed dissolution of a district – to name a few, Apple Valley Park and Recreation District, Mojave River County Water District, Yucca Valley Park and Recreation District, and Twentynine Palms Park and Recreation District. The proposal presented today is unusual in that it proposes to dissolve an agency without transferring its responsibility to another, especially a service

that contributes to the safety of the residents. However, if the residents of an area are unwilling to adequately fund a service and there is an inherent liability to the County due to the existence of the agency, it creates the need for resolution. In this case, the only resolution amenable to the property owners is dissolution of the District.

A County Service Area, by definition, is solely intended to provide a means to fund the augmented services an area requests. The residents and property owners requested an augmented service in 1970 and funded it at the time. With the advent of Prop. 13 and Prop 218, any increase in the funding of this service requires the approval of two-thirds of the landowners within the area. The current residents and property owners have been asked in 1991 and 2002 to increase their funding for this service and they have responded in the negative. In addition, 90% of those landowners/residents responding to the last survey have indicated their support for dissolution. The roads within the area are privately owned, and will remain so following any action. Therefore, in the end, staff's position is that approval of LAFCO #2942 is warranted.

Attachments:

1. Maps of LAFCO 2942 and its Vicinity
2. Application from the County including Board Agenda Item Initiating Action and November 2002 survey
3. Letter from Apple Valley Fire Protection District Expressing Concern
4. Letter from Town of Apple Valley in Opposition to this Proposal
5. Response from the County Special Districts Department
6. Environmental Review from Tom Dodson and Associates
7. Draft LAFCO Resolution #2780